

**PROPERTY ASSESSMENT APPEAL BOARD  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket Nos. 2021-103-10055R; 2021-103-10056R; 2021-103-10057R; and  
2021-103-10058R

Parcel Nos. P1109A03; P1109A04; P1109A02; and P1109A01

**Lisa and Derrick Nix (Riverside Real Estate Holdings, LLC),**

Appellant,

vs.

**City of Davenport Board of Review,**

Appellee.

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**Introduction**

These appeals came on for hearing before the Property Assessment Appeal Board (PAAB) on April 21, 2022. Riverside Real Estate Holdings, LLC, (Riverside) is represented by its owner, Derrick Nix. Attorney Tom Warner represented the City of Davenport Board of Review.

Riverside owns four residential properties in Davenport, Iowa, located at 1217 W 53rd Street, 215 W 53rd Street, 1221 W 53rd Street, and 1223 W 53rd Street. (Exs. A).<sup>1</sup>

Riverside petitioned the Board of Review contending the properties were assessed for more than the value authorized by law and there was fraud or misconduct in the assessment. Iowa Code § 441.37(1)(a)(1)(b & e) (2021). (Exs. C). In the respective appeal spaces Nix wrote, “land value only protesting” and “did not present case/board was not prepared with docs.” The Board of Review denied the petitions. (Exs. B).

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<sup>1</sup> Each docket contains Exhibits A-C and are specific to each individual site. When referenced collectively to the sites, only one Exhibit will be cited. If an individual site is referenced the corresponding docket number will also be cited.

Riverside then appealed to PAAB asserting the assessments are not equitable as compared with the assessments of other like property in the taxing district, that there is an error in the assessments, and that there is fraud or misconduct in the assessments. § 441.37(1)(a)(1)(a, d, e) (2021).

### **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## Findings of Fact

Derrick Nix testified for Riverside.

The subject properties are summarized in the following table. (Exs. A).

Docket	Address	Site Size (Acres)	Land Value	Improvement Value	2021 Assessed Value
2021-103-10055R	1217 W 53rd St	0.159	\$20,320	\$216,100	\$236,420
2021-103-10056R	1215 W 53rd St	0.176	\$22,560	\$216,190	\$238,750
2021-103-10057R	1221 W 53rd St	0.159	\$16,270	\$0	\$16,270
2021-103-10058R	1223 W 53rd St	0.263	\$22,260	\$0	\$22,260

1215 and 1217 West 53rd Street properties were improved for the 2021 assessment. However, Nix indicated at hearing he was only concerned with the properties' land values.

Nix testified Riverside purchased the parcels in 2017. It was subsequently subdivided into the four subject lots.<sup>2</sup> Now the four subject sites collectively have a total 2021 assessed land value of \$81,410. (Exs. A). Nix was critical of the 2021 total assessed values being slightly higher than the 2017 purchase price. In his opinion, this is not how the assessment process is to work. Additionally, he described a nearby piece of land that has a lower assessed value than its recent purchase price, but did not timely submit evidence in support of his testimony.

The Board of Review offered no witness. However, on cross Nix admitted he sold 1215 W 53rd Street in October 2021 for \$239,990 and 1217 W 53rd Street in August 2021 for \$244,900. We further note the improvements on 1215 W 53rd Street and 1217 W 53rd Street were newly constructed and did not exist at the time of Riverside's purchase. Improvements added to the land often impact the land value as well because the parcel is no longer vacant.

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<sup>2</sup> Nix protested the 2020 assessments of the same parcels in Riverside Real Estate Holdings, LLC vs. City of Davenport Board of Review, PAAB Docket Nos. 2020-103-10020R; 10022R; 10023R; and 10024R (August 3, 2021) *available at* <https://paab.iowa.gov/sites/default/files/2021-08/Riverside%20Real%20Estate%202020-103-10020R%2C%2010022R%2C%2010023R%20%26%2010024R.pdf>.

## **Analysis & Conclusions of Law**

Riverside contends the subject properties are inequitably assessed, assessed for more than authorized by law, that there is an error in the assessments, and there is fraud or misconduct in the assessments as provided under Iowa Code section 441.37(1)(a)(1) (a, b, d, e).

Riverside's claims focus solely on the value attributed to the land. However, Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956); *White v. Bd. of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Accordingly, while giving due consideration to Riverside's arguments, our end focus when evaluating its claim is on the subject property's total value.

### **Error Claim**

Riverside asserts there is an error in the assessments. § 441.37(1)(a)(1)(d). An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4).

Riverside did not provide any evidence of an error in the assessments. Based on its arguments, it would appear Riverside believes the assessment errors are that the subject properties are over assessed. Its error claim fails.

### **Fraud or Misconduct in the Assessment**

We next address Riverside's claim of fraud or misconduct. Under Section 441.37(1)(a)(1)(e), a taxpayer may assert there is fraud or misconduct in the assessment, which is specifically stated. "It is not necessary to show actual fraud. Constructive fraud is sufficient." *Chicago and North Western Railway Co. v. Prentis*, 161 N.W.2d 84, 97 (Iowa 1968) (citing *Pierce v. Green*, 294 N.W. 237, 255 (Iowa 1940)). Constructive fraud may include acts that have a tendency to deceive, mislead, or violate confidence, regardless of the actor's actual motive. *In Interest of C.K.*, 315 N.W.2d 37, 42 (Iowa 1982) (quoting *Curtis v. Armagast*, 138 N.W. 873, 878 6 (Iowa 1912)). See 37 C.J.S. Fraud § 5 (2020); BLACK'S LAW DICTIONARY Fraud (11th ed. 2019).

§441.37(1)(a)(5). Misconduct in an assessment “includes but is not limited to knowingly engaging in assessment methods, practices, or conduct that contravenes any applicable law, administrative rule, or order of any court or other government authority.” §§ 441.9, 441.37(1)(a)(5).

Riverside did not provide any evidence of fraud or misconduct in the assessment and its claim must fail.

#### Inequity Claim

Under section 441.37(1)(a)(1), a taxpayer may claim that their property is inequitably assessed when compared to other like properties in the taxing district.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Riverside failed to demonstrate the Assessor applied an assessing method in a non-uniform manner to similarly situated properties.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties and the subject, the subject property is assessed at a higher proportion of this actual value. *Id. Id.* This is typically demonstrated by comparing prior year (2020) sales with the current (2021) assessment of the subject and comparable properties.

Riverside submitted no properties for comparison. Although Nix attempted to introduce some other parcels in his testimony, the supporting documentary evidence was previously excluded from the record for being untimely filed. Thus, Nix failed to provide any comparable properties to support his claim. Accordingly, the *Maxwell* test cannot be completed. Based on the foregoing reasons, we find Riverside’s inequity claim fails.

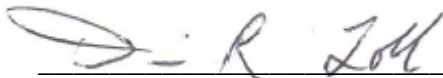
## Order

PAAB HEREBY AFFIRMS the City of Davenport's Board of Review's action on the four subject parcels.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2021).



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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City of Davenport Board of Review by eFile